

Commodity Futures Trading Commission

§ 30.6

(4) Represent that the petitioner would not be statutorily disqualified from registration under Section 8a(2) or 8a(3) of the Commodity Exchange Act and that the petitioner is not disqualified from registration pursuant to the laws or regulations of its home country;

(5) If the petitioner or its activities are regulated by any government entity or self-regulatory organization, state the name and address of such government entity or self-regulatory organization;

(6) State whether the petitioner is applying for a § 30.5 exemption from registration as an introducing broker, commodity pool operator or commodity trading advisor;

(7) Be signed as follows: If the petitioner is a sole proprietorship, by the sole proprietor; if a partnership, by a general partner; if a corporation, by the chief executive officer or other person(s) legally authorized to bind the corporation; if any other business structure, by such person or persons involved in the management of the petitioner and legally authorized to bind the petitioner; and

(8) Be filed with the Vice President-Registration, National Futures Association, 200 West Madison Street, Chicago, Illinois 60606.

[52 FR 28998, Aug. 5, 1987, as amended at 64 FR 28914, May 28, 1999]

§ 30.6 Disclosure.

(a) *Future commission merchants and introducing brokers.* Except as provided in § 1.65 of this chapter, no futures commission merchant, or in the case of an introduced account no introducing broker, may open a foreign futures or option account for a foreign futures or option customer, other than for a customer specified in § 1.55(f) of this chapter, unless the futures commission merchant or introducing broker first furnishes the customer with a separate written disclosure statement containing only the language set forth in § 1.55(b) of this chapter or as otherwise approved under § 155(c) of this chapter (except for nonsubstantive additions such as captions), which has been acknowledged in accordance with § 1.55 of this chapter: *Provided, however,* that the risk disclosure statement may be

attached to other documents as the cover page or the first page of such documents and as the only material on such page.

(b) *Commodity pool operators and commodity trading advisors.* (1) With respect to persons who satisfy the requirements of qualified eligible persons, as defined in § 4.7(a) of this chapter:

(i) A commodity pool operator registered or required to be registered under this part, or exempt from registration pursuant to § 30.5, may not, directly or indirectly, engage in any of the activities described in § 30.4(c) unless the pool operator, at or before the time it engages in such activities, first provides each prospective qualified eligible person with the Risk Disclosure Statement set forth in § 4.24(b)(2) of this chapter and the statement in § 4.7(b)(1)(i) of this chapter;

(ii) A commodity trading advisor registered or required to be registered under this part, or exempt from registration pursuant to § 30.5, may not, directly or indirectly, engage in any of the activities described in § 30.4(d) unless the trading advisor, at or before the time it engages in such activities, first provides each qualified eligible person with the Risk Disclosure Statement set forth in § 4.34(b)(2) of this chapter and the statement in § 4.7(c)(1)(i) of this chapter.

(2) With respect to persons who do not satisfy the requirements of qualified eligible persons, as defined in § 4.7(a) of this chapter:

(i) A commodity pool operator registered or required to be registered under this part, or exempt from registration pursuant to § 30.5, may not, directly or indirectly, engage in any of the activities described in § 30.4(c) unless the pool operator, at or before the time it engages in such activities, first provides each prospective participant with the Disclosure Document required to be furnished to customers or potential customers pursuant to § 4.21 of this chapter and files the Disclosure Document in accordance with § 4.26 of this chapter;

(ii) A commodity trading advisor registered or required to be registered under this part, or exempt from registration pursuant to § 30.5, may not, directly or indirectly, engage in any of

the activities described in §30.4(d) unless the trading advisor, at or before the time it engages in such activities, first provides each prospective client with the Disclosure Document required to be furnished customers or potential customers pursuant to §4.31 of this chapter and files the Disclosure Document in accordance with §4.36 of this chapter.

(c) The acknowledgment required by paragraphs (a) and (b) of this section must be retained by the futures commission merchant, introducing broker, commodity pool operator or commodity trading advisor in accordance with §1.31 of this chapter.

(d) This section does not relieve a futures commission merchant or introducing broker from its obligations under §33.7 of this chapter: *Provided, however*, That a new disclosure statement is not required to be furnished if the futures commission merchant or introducing broker has previously delivered such statement to the foreign options customer in connection with the opening of a commodity option account under part 33 of this chapter.

(e) This section does not relieve a futures commission merchant, introducing broker, commodity pool operator or commodity trading advisor from any other disclosure obligation it may have under applicable law or regulation.

[52 FR 28998, Aug. 5, 1987, as amended at 58 FR 17505, Apr. 5, 1993; 60 FR 38193, July 25, 1995; 63 FR 8571, Feb. 20, 1998; 64 FR 28914, May 28, 1999; 65 FR 47859, Aug. 4, 2000]

§30.7 Treatment of foreign futures or foreign options secured amount.

(a) Except as provided in this section, a futures commission merchant must maintain in a separate account or accounts money, securities and property in an amount at least sufficient to cover or satisfy all of its current obligations to foreign futures or foreign options customers denominated as the foreign futures or foreign options secured amount. Such money, securities and property may not be commingled with the money, securities or property of such futures commission merchant, with any proprietary account of such futures commission merchant, or used to secure or guarantee the obligations

of, or extend credit to, such futures commission merchant or any proprietary account of such futures commission merchant.

(b) A futures commission merchant may deposit together with the secured amount required to be on deposit in the separate account or accounts referred to in paragraph (a) of this section money, securities or property held for or on behalf of other customers of the futures commission merchant for the purpose of entering into foreign futures or foreign options transactions. In such a case, the amount that must be deposited in such separate account or accounts must be no less than the greater of (1) the foreign futures and foreign options secured amount plus the amount that would be required to be on deposit if all such customers were foreign futures or foreign options customers under this part 30, or (2) the foreign futures or foreign options secured amount plus the amount required to be held in a separate account or accounts for or on behalf of customers pursuant to any law, or rule, regulation or order thereunder, or any rule of any self-regulatory organization authorized thereunder, in the jurisdiction in which the depository or the customer, as appropriate, is located.

(c) The separate account or accounts referred to in paragraph (a) of this section must be maintained under an account name that clearly identifies them as such, with any of the following depositories:

- (1) A bank or trust company located in the United States or as designated;
- (2) Another person registered as a futures commission merchant;
- (3) The clearing organization of any foreign board of trade;
- (4) Any member of such board of trade; or
- (5) Such member or clearing organization's designated depositories. Each futures commission merchant must obtain and retain in its files for the period provided in §1.31 of this chapter an acknowledgment from such depository that it was informed that such money, securities or property are held for or on behalf of foreign futures and foreign options customers and are being held in accordance with the provisions of these regulations.